



STATE REPRESENTATIVE
Garey Bies
1ST ASSEMBLY DISTRICT

**Testimony of Representative Garey Bies
Assembly Criminal Justice & Corrections Committee
AB 420 – Providing Alcohol to Underage Persons**

Good morning fellow Committee members. Thank you for allowing me this opportunity to testify in support of Assembly Bill 420, relating to penalties for individuals who knowingly provide alcohol to underage persons who are subsequently injured or killed as a result of consuming that alcohol.

The need for this legislation was brought to my attention following the tragic deaths of two young women from my district. Karen Teskie, age 20, and Amanda Brandt, age 19, spent the last evening of their lives at a tavern in Ellison Bay. Even though the bartender knew both girls were under the 21 year-old legal drinking age, he served them several drinks. Shortly after leaving the establishment, the girls were killed in a one-car crash. Both had BAC's well in excess of .08.

Their deaths have dealt a devastating blow to their families, friends, and the community as a whole. The void their loved ones feel as a result of the loss of Karen and Amanda can never be filled, but it's my hope this legislation can help prevent such a tragedy from befalling another family.

Currently, Wisconsin law protects those under the age of 18 if they are knowingly served alcohol and subsequently suffer great bodily harm or death as a result. In those cases, the provider can be charged with a Class H or Class G felony respectively. A Class H felony is punishable by a fine of not more than \$10,000 or a term of imprisonment of up to six years or both. If the underage person dies as a result of consumption, the provider can be charged with a Class G felony, punishable by a fine of not more than \$25,000 or a prison term of ten years or both.

The bartender who served Karen and Amanda was convicted on a misdemeanor charge and received a fine of \$876.

I strongly believe that we should extend to 18, 19 and 20 year-olds the same protections currently on the books for those under 18. We all know that underage drinking is a problem faced by communities across our state. Anything we can do to address this problem is a step in the right direction. We can send a strong, clear message to those who knowingly serve alcohol to our young people – if they are harmed or killed as a result of your irresponsible actions, you will be held accountable under the law.

Thank you for your time and hopefully your support of Assembly Bill 420.

First for Wisconsin!

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TO: Members, Assembly Committee on Criminal Justice and Corrections
FROM: Maureen Busalacchi, Health First Wisconsin
RE: Assembly Bill 420
DATE: January 25, 2012

Thank you Rep. Bies for introducing AB 420 and for holding a public hearing. We applaud your efforts to hold those accountable that provide alcohol to underage persons leading to great bodily harm or death. We appreciate that this expands upon current law, but request that it would be expanded further.

While this legislation is important, we would encourage the committee to take a more comprehensive approach to this issue, in regards to venue. We would request that it be expanded with no limitations to the licensed premise when it comes to age.

This committee shouldn't be blind to the fact that unfortunately individuals under the age of 18 are being served, or sold alcohol, whether knowingly or not, at licensed premises. The same way individuals under the age of 18 are being provided with alcohol at non-license premises, such as house parties. So why in this bill should the age be limited when it comes to licensed premises versus general premises?

We ask this committee to recommend and support amending the current language of this bill to remove the age restriction for licensed premises.



Testimony of
Nina J. Emerson, Director
Resource Center on Impaired Driving
University of Wisconsin Law School

2011 Assembly Bill 420

Committee on Criminal Justice and Corrections
Public Hearing
300 Northeast, State Capitol
Wednesday, January 25, 2012
10:00 a.m.

Thank you, Chairperson Bies and members of the Criminal Justice and Corrections Committee for the opportunity to testify on Assembly Bill 420. My name is Nina Emerson. I am an attorney and the director of the Resource Center on Impaired Driving at the University of Wisconsin Law School. My testimony today is for information purposes only. The Resource Center does not take a formal position on AB 420 as the Center is designed to serve as a neutral clearinghouse on impaired driving issues.

Section 125.075 sets out clear consequences for the provision of alcohol to minors, whether sold, dispensed or given away, when that alcohol results in death or great bodily harm to the minor. The Class G and Class H felony status reflects the seriousness of the consequences to the provider.

The court of appeals also recognized the seriousness of providing alcohol to minors. In *State v. Wille*, 2007 WI App 27, 299 Wis. 2d 531, 728 N.W.2d 343, the court affirmed a judgment of conviction for causing death by procuring alcohol for a minor. Ronald Wille, himself underage at the time, purchased a couple of half-barrels of beer and had them delivered to his place where he was having a party. Wille sold red plastic cups for \$5.00 each to people who attended, which they could use to drink as much beer as they wanted. Kristopher Meshak attended Wille's party, got drunk and left. He ended up crashing his car and dying from traumatic brain injuries that he suffered. He was 17 years old. The State of Wisconsin brought felony charges against Wille under s. 125.075(1). A jury found him guilty and he was sentenced to five years' probation.

On appeal, Wille admits that he purchased beer for the party and sold red cups, but he argued that the State did not prove that he sold a cup to Meshak or gave beer to Meshak or that he even knew Meshak. He contends the State was required to prove that

he “knew or should have known that the underage person was under the legal drinking age.” The court reasoned the statutory reference to a single person does not preclude its application to a defendant who procures alcohol for a group of persons that defendant knew or should have known were underage. Further, the court concluded that it would be “absurd” to require a personal interaction between the defendant and the victim or require that the defendant have knowledge that a particular underage person would consume the alcohol provided by the defendant. In this case, it was enough that Wille knew persons under the legal drinking age would be attending his party and consuming beer, which he purchased for the party. *Wille*, ¶ 11-12.

This court decision is important because it points out that one of the underlying purposes of Ch. 125 is to “keep alcohol beverages out of the hands of minors and other underage persons by, in part, imposing civil and criminal penalties on those who provide it to them.” *Wille*, ¶ 14. In response to Wille’s hypothetical question, “Did the legislature intend to make a felon out of any person who brings an intoxicant to a party that the victim may have shared? Our response is straightforward: based on the language it enacted, the legislature has indeed criminalized the bringing of intoxicants to a party, *if* the alcohol beverages are provided to a person under eighteen who dies or suffers great bodily harm as a result of its consumption, *and* the provider knew or should have known that one or more underage persons would consume the provided beverages.” *Wille*, ¶ 22.

It appears that the sponsors of this Bill recognize the importance of retaining the current law as it pertains to providing alcohol to a minor. But I wonder if the parent of the 18 or 19 year old who dies as the result of being provided alcohol in a commercial setting is going to take much comfort in that distinction. What if the 18 or 19 year old is provided alcohol in a house party setting as in *Wille*, and dies or suffers great bodily harm as a result? Assembly Bill 420 would not allow any criminal charges to be filed against the provider in that scenario. If Meshak was 18 years old instead of 17, the State would not have been able to file charges against Wille—even under AB 420.

Thank you for your time.